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SUPERFUND RECORDS

May 22, 1989

MEMORANDUM

SUBJECT: Property Acquisition at Cherokee County Superfund Site

FROM: E. Jane Kloeckner
Assistant Regional Counsel

THRU: Martha Steincamp
Regional Counsel, Region VII

TO: Morris Kay
Regional Administrator

The attached memorandum for your signature should be submitted to EPA headquarters for approval of the plan for property acquisition at the Cherokee County Site. Although the property will be acquired by the Rural Water District, because fund monies may be utilized in this acquisition (particularly for the fee simple tracts), headquarters has advised that this memorandum is appropriate.

Regional Counsel and the Superfund Program concur with the issuance of this memorandum to EPA headquarters.

Attachment

Draft:JKloeckner:eac:5/22/89:Kloeckner:ltrs&memos #3

CONCURRENCES							
SYMBOL	CNSL	CNSL	SPFD	SPFD	SPFD	WSTM	CNSL
SURNAME	KLOECKNER	WICINSKI	CURTIS	WRIGHT	SANDERSON	WAGONER	STEINCAMP
DATE	5/23	5/23/89	6-13-89	6/1/89	6/1/89	6/1/89	6/1/89

JUL 05 1989

MEMORANDUM

SUBJECT: Approval of Property Acquisition at Cherokee County
Superfund Site, Cherokee County, Kansas

FROM: Morris Kay
Regional Administrator, Region VII

TO: Gerald Yamada
Acting General Counsel
Mail Code LE-130

Jonathan Cannon
Acting Assistant Administrator for
Solid Waste and Emergency Response
Mail Code OS-100

This memorandum addresses property acquisition requirements for the impending construction of the remedial action at the Cherokee County Site, Galena Subsite in Region VII located in Cherokee County, Kansas. Pursuant to CERCLA delegation #14-30 and redelegation #R-14-30, the Region hereby seeks concurrence of the General Counsel and the Assistant Administrator of OSWER for the acquisition by the local Rural Water District of certain property interests necessary to conduct remedial action at the subsite. The Region relies on the authority of Section 104(j) of CERCLA, 42 U.S.C. § 9604(j), for the acquisition of these property interests.

The Cherokee County site encompasses a 100 square mile mining area in the southeast corner of Cherokee County, Kansas; originally part of the tri-state mining district. The Galena subsite encompasses 25 square miles within the site surrounding and including the City of Galena, Kansas.

Previous mining activities in the subsite led to heavy metal contamination of the shallow groundwater aquifer. Families living in the subsite use private water wells and depend on the

Concurrences							
Symbol	CNSL	CNSL	CNSL	SPFD	SPFD	SPFD	WSTM
Initials	KloECKnr	Micinski	Steincmp	Curtis	Wright	Sandersn	Wagoner
Date							

shallow groundwater aquifer for their potable water supply. The Agency's remedial investigation and feasibility studies regarding this subsite have shown that 10% of these private water wells are contaminated with lead or cadmium at levels in excess of the maximum concentration levels established by the Safe Drinking Water Act. In addition, the Agency's studies and investigations of the subsite have shown that the geohydrology of the site and the existing sources of acid mine drainage combine to form a definitive threat of contamination from acid mine drainage to otherwise apparently uncontaminated private drinking water wells. Contamination of the private water wells may vary with precipitation events, frequency and rate of use of the water well, and other factors.

The Agency determined in a Record of Decision issued December 21, 1987, that the residents of this subsite need an alternative water supply system to provide safe drinking water. The Agency has installed several temporary water treatment units in certain homes where the private wells are known to be contaminated. All residents in the subsite have been encouraged to connect their homes to the new public water system. The Agency expects to perform additional remedial actions at this subsite for source control measures.

The alternative water system to be installed at the subsite consists of an independent public water distribution system using groundwater from a good quality deep groundwater aquifer, i.e. the Roubidoux regional aquifer. The system is to be operated and maintained by the local Rural Water District (RWD) No. 8, Cherokee County, Kansas. In order to establish the public distribution system, wells need to be drilled, water towers and pump stations constructed, and water pipelines and meters installed in the area. These activities require the use of land. The RWD has agreed to take title to all necessary property, including easements for pipelines and meters and fee simple title for water towers, pumps and wells. If any property owners object to the use of their property for the easements, the RWD may perform formal condemnation proceedings in state court through the state eminent domain authority. However, the EPA will not participate in nor fund any condemnation proceedings in this matter. The use of fund monies will be limited to acquire parcels with fee simple title for water wells, pump stations and water towers. Fund monies will not be used to acquire easements. Easements from any private property owners are to be donated by the owners in consideration of the benefit received by the provision of adequate and reliable drinking water. Approximately 450 individual water line easements will be deeded to the RWD. Approximately four (4) fee simple titles will be acquired by the RWD for the water towers, water pump station and water wells. These parcels range in size from 1.03 acres or less.

In addition, the Agency will obtain access agreements with various property owners pursuant to CERCLA authority for construction of the water supply system. The U.S. Army Corps of Engineers (COE) has a management contract with the Agency and will oversee the construction contractor's installation of the system. Thus, access for EPA and the COE will be necessary. The COE is also helping the Agency and the RWD in preparation of the legal descriptions, titles and communications with the affected property owners.

Region VII seeks your concurrence and authorization to proceed with the above property acquisition plans. The COE will not seek bids on the construction contract until the necessary easements are obtained, thus, this matter is most urgent as we plan to seek bids on August 1, 1989. This remedial action is planned for construction to begin before October 17, 1989, making this action one of the expected 175 Remedial Action starts.

Thank you for your immediate attention to this matter. The Region looks forward to your reply.